

MERCHANT &amp; GOULD P.C.

## United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: HYDRAULICALLY ADJUSTABLE HINGED HITCH

The specification of which

- a. ☒ is attached hereto  
b. ☐ was filed on \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. \_\_\_\_\_ filed \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.  
b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I acknowledge the duty to disclose information that is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (reprinted below):

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:


Ali, M. Jeffer	Reg. No. 46,359	Lauer, Deakin T.	Reg. No. 47,892
Altera, Allan G.	Reg. No. 40,274	Leach III, Thomas J.	Reg. No. 53,188
Anderson, Gregg I.	Reg. No. 28,828	Leonard, Christopher J.	Reg. No. 41,940
Batzli, Brian H.	Reg. No. 32,960	Lewis, George C.	Reg. No. 53,214
Beard, John L.	Reg. No. 27,612	Liepa, Mara E.	Reg. No. 40,066
Berns, John M.	Reg. No. 43,496	McDonald, Daniel W.	Reg. No. 32,044
Blackburn, Murrell W.	Reg. No. 50,881	McIntyre, Jr., William F.	Reg. No. 44,921
Bortolotti, Rebecca	Reg. No. 51,488	Mueller, Douglas P.	Reg. No. 30,300
Brown, Jeffrey C.	Reg. No. 41,643	Nelson, Anna M.	Reg. No. 48,935
Bruess, Steven C.	Reg. No. 34,130	Pauly, Daniel M.	Reg. No. 40,123
Burke, John E.	Reg. No. 35,836	Peterson, Kyle T.	Reg. No. 46,989
Byrne, Linda M.	Reg. No. 32,404	Phillips, John B.	Reg. No. 37,206
Clifford, John A.	Reg. No. 30,247	Randall, Joshua N.	Reg. No. 50,719
Cook, Jeffrey	Reg. No. 48,649	Reich, John C.	Reg. No. 37,703
Daignault, Ronald A.	Reg. No. 25,968	Reiland, Earl D.	Reg. No. 25,767
Daley, Dennis R.	Reg. No. 34,994	Schmaltz, David G.	Reg. No. 39,828
Daley, William J.	Reg. No. 52,471	Schuman, Mark D.	Reg. No. 31,197
Daulton, Julie R.	Reg. No. 36,414	Schumann, Michael D.	Reg. No. 30,422
Deffner, Mark E.	Reg. No. P-55,103	Scull, Timothy B.	Reg. No. 42,137
DeVries Smith, Katherine M.	Reg. No. 42,157	Sebald, Gregory A.	Reg. No. 33,280
DiPietro, Mark J.	Reg. No. 28,707	Skoog, Mark T.	Reg. No. 40,178
Doscotch, Matthew A.	Reg. No. 48,957	Sorge, Keith M.	Reg. No. 50,865
Edell, Robert T.	Reg. No. 20,187	Stewart, Alan R.	Reg. No. 47,974
Epp Ryan, Sandra	Reg. No. 39,667	Stoll-DeBell, Kirstin L.	Reg. No. 43,164
Fitzsimmons, Karen A.	Reg. No. 50,470	Strouse, Thomas J.	Reg. No. 53,950
Frost, Roger T.	Reg. No. 22,176	Sullivan, Timothy	Reg. No. 47,981
Golla, Charles E.	Reg. No. 26,896	Swenson, Erik G.	Reg. No. 45,147
Gorman, Alan G.	Reg. No. 38,472	Trembath, Jon R.	Reg. No. 38,344
Gotfredson, Garen J.	Reg. No. 44,722	Underhill, Albert L.	Reg. No. 27,403
Gould, John D.	Reg. No. 18,223	Wahl, John R.	Reg. No. 33,044
Gresens, John J.	Reg. No. 33,112	Welter, Paul A.	Reg. No. 20,890
Haack, John L.	Reg. No. 36,154	Wier, David D.	Reg. No. 48,229
Hamre, Curtis B.	Reg. No. 29,165	Williams, Douglas J.	Reg. No. 27,054
Hennings, Mark	Reg. No. 48,982	Wong, Bryan A.	Reg. No. 50,836
Hertzberg, Brett A.	Reg. No. 42,660	Zeuli, Anthony R.	Reg. No. 45,255
Hillson, Randall A.	Reg. No. 31,838		
Hope, Leonard J.	Reg. No. 44,774		
Hornsby, III, Alton	Reg. No. 47,299		
Jacobson, Charles A.	Reg. No. 53,061		
Johns, Nicholas P.	Reg. No. 48,995		
Johnston, Scott W.	Reg. No. 39,721		
Kalinsky, Robert A.	Reg. No. 50,471		
Kettelberger, Denise	Reg. No. 33,924		
Knearl, Homer L.	Reg. No. 21,197		
Korver, Joshua W.	Reg. No. 51,894		
Kowalchyk, Alan W.	Reg. No. 31,535		
Kowalchyk, Katherine M.	Reg. No. 36,848		
Lamberty, Michael	Reg. No. 50,760		
Larson, James A.	Reg. No. 40,443		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

I understand that the execution of this document, and the grant of a power of attorney, does not in itself establish an attorney-client relationship between the undersigned and the law firm Merchant & Gould P.C., or any of its attorneys.  
Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	<b>Full Name Of Inventor</b>	<b>Family Name</b> ALMEN	<b>First Given Name</b> PETER	<b>Second Given Name</b> D.
0	<b>Residence &amp; Citizenship</b>	<b>City</b> DEVILS LAKE	<b>State or Foreign Country</b> NORTH DAKOTA	<b>Country of Citizenship</b> USA
1	<b>Mailing Address</b>	<b>Address</b> 111 21ST STREET	<b>City</b> DEVILS LAKE	<b>State &amp; Zip Code/Country</b> NORTH DAKOTA 58301/USA
Signature of Inventor 201: 			Date: 2/2/04	

**23552**  
PATENT TRADEMARK OFFICE

**SMALL BUSINESS**

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 C.F.R. 1.27(a)(2)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- a) ☐ the owner of the small business concern identified below:  
b) ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Summers Manufacturing Co., Inc.  
ADDRESS OF CONCERN: 103 Summers Street  
Devils Lake, North Dakota 58301

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. 121 and in 37 C.F.R. 1.27(a)(2), and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled HYDRAULICALLY ADJUSTABLE HINGED HITCH by inventor(s) Peter D. Almen described in

- a) ☒ the specification filed herewith.  
b) ☐ provisional application serial no. \_\_\_, filed \_\_\_\_.  
c) ☐ non-provisional application serial no. \_\_\_, filed \_\_\_\_.  
d) ☐ patent no. \_\_\_, issued \_\_\_\_.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a person under 37 C.F.R. 1.27(a)(1) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.27(a)(2) or a nonprofit organization under 37 C.F.R. 1.27(a)(3).

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
a) ☐ PERSON                      b) ☐ SMALL BUSINESS CONCERN                      c) ☐ NONPROFIT ORGANIZATION

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
a) ☐ INDIVIDUAL                      b) ☐ SMALL BUSINESS CONCERN                      c) ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 C.F.R. 1.27(g)(2)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

NAME: Cartee Summers  
TITLE: V.P.  
ADDRESS: 103 Summers Street, Devils Lake, North Dakota 58301  
SIGNATURE: [Signature]                      Date: 2/3/04

\* Separate statements should be obtained from each named person, concern, or organization having rights to the invention as to their status as small entities.